

For the interstate commerce exemption to apply, delivery of the goods outside of Illinois must actually be made. Sales are subject to sales tax and are not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of the property in Illinois, even if such property is immediately transported outside of Illinois. See 86 Ill. Adm. Code 130.605(a)(1) and (2). (This is a GIL).

April 8, 2002

Dear Xxxxx:

This letter is in response to your letter dated March 4, 2002. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be found on the Department's website at [www.revenue.state.il.us/Laws/regs/part1200/](http://www.revenue.state.il.us/Laws/regs/part1200/).

In your letter, you have stated and made inquiry as follows:

We received information concerning out-of-state customers NOT paying Illinois sales tax to our Illinois business.

We are a business in a very small town right on the STATE border. Most Illinois consumers in our area go to STATE to shop. STATE offers a much larger shopping area in especially CITIES. We have had several calls from STATE residents wanting to purchase lawn equipment and not pay Illinois sales tax if we deliver the equipment across the state line. We know that many STATE businesses do this, but we do not know the law to be sure this is legal.

PERSON understands that it is legal. He faxed us information on these regulations which are attached. However, you are the legal department and we would like your confirmation that as long as we deliver lawn equipment across the state line, it is legal to not collect sales tax from STATE customers.

We would appreciate you getting back with us as soon as possible on this matter and inform us if there would be any other financial obligation we would be liable for.

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. See the enclosed copy of 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a

retailer. See the enclosed copy of 86 Ill. Adm. Code 150.101. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase.

As a general proposition, sales tax applies to sales of tangible personal property in Illinois, unless one can document an exemption. When tangible personal property is located in this State at the time of its sale (or is subsequently produced in this State) and then is delivered in this State to the purchaser, the gross receipts from the sale are subject to tax if the sale is at retail. However, when a sale is conducted in which the seller is obligated, under the terms of an agreement with the purchaser, to make delivery of the property from a point in this State to a point outside this State, not to be returned to this State, provided that such delivery is actually made, the gross receipts are not subject to tax. See subsection (b) of the enclosed copy of 86 Ill. Adm. Code 130.605.

For the interstate commerce exemption to apply, delivery of the goods outside of Illinois must actually be made. Sales are subject to sales tax and are not deemed to be in interstate commerce if the purchaser or his representative receives the physical possession of the property in Illinois, even if such property is immediately transported outside of Illinois. See 86 Ill. Adm. Code 130.605(a)(1) and (2).

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:mks  
Enc.

cc: Richard Sgro